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II

106TH CONGRESS
1ST SESSION

S. 494

To amend title XIX of the Social Security Act to prohibit transfers or discharges of residents of nursing facilities as a result of a voluntary withdrawal from participation in the medicaid program.

IN THE SENATE OF THE UNITED STATES

MARCH 2, 1999

Mr. GRAHAM (for himself, Mr. GRASSLEY, Mr. ROTH, Mr. MOYNIHAN, Mr. CHAFEE, Mr. ROCKEFELLER, Mr. MACK, Mr. BREAUX, Mr. KERREY, Ms. MIKULSKI, Mr. BRYAN, Mr. HOLLINGS, Mr. INOUE, Mr. HARKIN, Mr. BAYH, Mr. ROBB, and Mr. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XIX of the Social Security Act to prohibit transfers or discharges of residents of nursing facilities as a result of a voluntary withdrawal from participation in the medicaid program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Nursing Home Resi-
5 dential Security Act of 1999".

1 SEC. 2. RESTRICTIONS ON TRANSFERS OR DISCHARGES OF
 2 NURSING FACILITY RESIDENTS IN THE CASE
 3 OF VOLUNTARY WITHDRAWAL FROM PAR-
 4 TICIPATION UNDER THE MEDICAID PRO-
 5 GRAM.

6 (a) IN GENERAL.—Section 1919(c)(2) of the Social
 7 Security Act (42 U.S.C. 1396r(c)(2)) is amended by add-
 8 ing at the end the following new subparagraph:

9 “(F) CONTINUING RIGHTS IN CASE OF
 10 VOLUNTARY WITHDRAWAL FROM PARTICIPA-
 11 TION.—

12 “(i) IN GENERAL.—In the case of a
 13 nursing facility that voluntarily withdraws
 14 from participation in a State plan under
 15 this title but continues to provide services
 16 of the type provided by nursing facilities—

17 “(I) the facility’s voluntary with-
 18 drawal from participation is not an
 19 acceptable basis for the transfer or
 20 discharge of residents of the facility
 21 who were residing in the facility on
 22 the day before the effective date of the
 23 withdrawal (including those residents
 24 who were not entitled to medical as-
 25 sistance as of such day);

“(II) the provisions of this section continue to apply to such residents until the date of their discharge from the facility; and

“(III) in the case of each individual who begins residence in the facility after the effective date of such withdrawal, the facility shall provide notice orally and in a prominent manner in writing on a separate page at the time the individual begins residence of the information described in clause (ii) and shall obtain from each such individual at such time an acknowledgment of receipt of such information that is in writing, signed by the individual, and separate from other documents signed by such individual.

Nothing in this subparagraph shall be construed as affecting any requirement of a participation agreement that a nursing facility provide advance notice to the State or the Secretary, or both, of its intention to terminate the agreement.

1 “(ii) INFORMATION FOR NEW RESI-
2 DENTS.—The information described in this
3 clause for a resident is the following:

4 “(I) The facility is not participat-
5 ing in the program under this title
6 with respect to that resident.

7 “(II) The facility may transfer or
8 discharge the resident from the facil-
9 ity at such time as the resident is un-
10 able to pay the charges of the facility,
11 even though the resident may have be-
12 come eligible for medical assistance
13 for nursing facility services under this
14 title.

15 “(iii) CONTINUATION OF PAYMENTS
16 AND OVERSIGHT AUTHORITY.—Notwith-
17 standing any other provision of this title,
18 with respect to the residents described in
19 clause (i)(I), a participation agreement of
20 a facility described in clause (i) is deemed
21 to continue in effect under such plan after
22 the effective date of the facility’s voluntary
23 withdrawal from participation under the
24 State plan for purposes of—

1 “(I) receiving payments under
2 the State plan for nursing facility
3 services provided to such residents;

4 “(II) maintaining compliance
5 with all applicable requirements of
6 this title; and

7 “(III) continuing to apply the
8 survey, certification, and enforcement
9 authority provided under subsections
10 (g) and (h) (including involuntary ter-
11 mination of a participation agreement
12 deemed continued under this clause).

13 “(iv) NO APPLICATION TO NEW RESI-
14 DENTS.—This paragraph (other than sub-
15 clause (III) of clause (i)) shall not apply to
16 an individual who begins residence in a fa-
17 cility on or after the effective date of the
18 withdrawal from participation under this
19 subparagraph.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 subsection (a) applies to voluntary withdrawals from par-
22 ticipation occurring on or after the date of the enactment
23 of this Act.

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